



Sen. Iris Y. Martinez

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1 AMENDMENT TO HOUSE BILL 2462

2 AMENDMENT NO. _____. Amend House Bill 2462 on page 1, by
3 replacing line 4 with the following:

4 "Section 5. The Illinois Housing Development Act is amended
5 by adding Section 32a as follows:

6 (20 ILCS 3805/32a new)

7 Sec. 32a. Certification program for building materials for
8 affordable housing projects.

9 (a) The Authority must establish and maintain a program to
10 certify proposed affordable housing development projects. The
11 building materials that are used in a development project that
12 is certified under this Section are exempt from the tax imposed
13 by the Retailers' Occupation Tax Act and by the Use Tax Act.

14 (b) Any applicant proposing an affordable housing
15 development project located or planned to be located in
16 Illinois may request certification of the project by the
17 Authority by formal application to the Department.

18 In determining whether to certify an affordable housing
19 development project, the Authority must determine that the
20 following conditions exist:

21 (1) the applicant's affordable housing development
22 project is economically sound and will benefit the people
23 of the State of Illinois by increasing the amount of needed
24 affordable housing in the geographic location in which the

1 project is or will be located;

2 (2) the application sufficiently describes the
3 affordable housing development project and sets forth a
4 reasonably complete list of the building materials for
5 which a tax exemption is sought; and

6 (3) the development will be used as affordable housing
7 for a period of at least 10 years.

8 (c) Upon satisfactory review of the application, the
9 Authority shall issue a Certificate of Eligibility for Sales
10 Tax Exemption. The Certificate of Eligibility for Sales Tax
11 Exemption must contain: (i) a statement that the building
12 project identified in the Certificate meets all the
13 requirements under this Section; and (ii) the location or
14 address of the affordable housing development project.

15 (d) For the purposes of this Section:

16 "Affordable housing" has the definition set forth in
17 Section 15 of the Affordable Housing Planning and Appeal Act.

18 "Affordable housing development project" means a project
19 to construct, remodel, or rehabilitate improvements on real
20 property to be used as affordable housing. If a development
21 project occurs to a building where some, but not all, of the
22 units in that building will be used for affordable housing
23 purposes, then "affordable housing development project" means
24 the project to construct, remodel, or rehabilitate only those
25 units that will be used for affordable housing purposes.

26 Section 10. The Use Tax Act is amended by changing Section
27 3-5 as follows:

28 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

29 Sec. 3-5. Exemptions. Use of the following tangible
30 personal property is exempt from the tax imposed by this Act:

31 (1) Personal property purchased from a corporation,
32 society, association, foundation, institution, or

1 organization, other than a limited liability company, that is
2 organized and operated as a not-for-profit service enterprise
3 for the benefit of persons 65 years of age or older if the
4 personal property was not purchased by the enterprise for the
5 purpose of resale by the enterprise.

6 (2) Personal property purchased by a not-for-profit
7 Illinois county fair association for use in conducting,
8 operating, or promoting the county fair.

9 (3) Personal property purchased by a not-for-profit arts or
10 cultural organization that establishes, by proof required by
11 the Department by rule, that it has received an exemption under
12 Section 501(c)(3) of the Internal Revenue Code and that is
13 organized and operated primarily for the presentation or
14 support of arts or cultural programming, activities, or
15 services. These organizations include, but are not limited to,
16 music and dramatic arts organizations such as symphony
17 orchestras and theatrical groups, arts and cultural service
18 organizations, local arts councils, visual arts organizations,
19 and media arts organizations. On and after the effective date
20 of this amendatory Act of the 92nd General Assembly, however,
21 an entity otherwise eligible for this exemption shall not make
22 tax-free purchases unless it has an active identification
23 number issued by the Department.

24 (4) Personal property purchased by a governmental body, by
25 a corporation, society, association, foundation, or
26 institution organized and operated exclusively for charitable,
27 religious, or educational purposes, or by a not-for-profit
28 corporation, society, association, foundation, institution, or
29 organization that has no compensated officers or employees and
30 that is organized and operated primarily for the recreation of
31 persons 55 years of age or older. A limited liability company
32 may qualify for the exemption under this paragraph only if the
33 limited liability company is organized and operated
34 exclusively for educational purposes. On and after July 1,

1 1987, however, no entity otherwise eligible for this exemption
2 shall make tax-free purchases unless it has an active exemption
3 identification number issued by the Department.

4 (5) Until July 1, 2003, a passenger car that is a
5 replacement vehicle to the extent that the purchase price of
6 the car is subject to the Replacement Vehicle Tax.

7 (6) Until July 1, 2003 and beginning again on September 1,
8 2004, graphic arts machinery and equipment, including repair
9 and replacement parts, both new and used, and including that
10 manufactured on special order, certified by the purchaser to be
11 used primarily for graphic arts production, and including
12 machinery and equipment purchased for lease. Equipment
13 includes chemicals or chemicals acting as catalysts but only if
14 the chemicals or chemicals acting as catalysts effect a direct
15 and immediate change upon a graphic arts product.

16 (7) Farm chemicals.

17 (8) Legal tender, currency, medallions, or gold or silver
18 coinage issued by the State of Illinois, the government of the
19 United States of America, or the government of any foreign
20 country, and bullion.

21 (9) Personal property purchased from a teacher-sponsored
22 student organization affiliated with an elementary or
23 secondary school located in Illinois.

24 (10) A motor vehicle of the first division, a motor vehicle
25 of the second division that is a self-contained motor vehicle
26 designed or permanently converted to provide living quarters
27 for recreational, camping, or travel use, with direct walk
28 through to the living quarters from the driver's seat, or a
29 motor vehicle of the second division that is of the van
30 configuration designed for the transportation of not less than
31 7 nor more than 16 passengers, as defined in Section 1-146 of
32 the Illinois Vehicle Code, that is used for automobile renting,
33 as defined in the Automobile Renting Occupation and Use Tax
34 Act.

1 (11) Farm machinery and equipment, both new and used,
2 including that manufactured on special order, certified by the
3 purchaser to be used primarily for production agriculture or
4 State or federal agricultural programs, including individual
5 replacement parts for the machinery and equipment, including
6 machinery and equipment purchased for lease, and including
7 implements of husbandry defined in Section 1-130 of the
8 Illinois Vehicle Code, farm machinery and agricultural
9 chemical and fertilizer spreaders, and nurse wagons required to
10 be registered under Section 3-809 of the Illinois Vehicle Code,
11 but excluding other motor vehicles required to be registered
12 under the Illinois Vehicle Code. Horticultural polyhouses or
13 hoop houses used for propagating, growing, or overwintering
14 plants shall be considered farm machinery and equipment under
15 this item (11). Agricultural chemical tender tanks and dry
16 boxes shall include units sold separately from a motor vehicle
17 required to be licensed and units sold mounted on a motor
18 vehicle required to be licensed if the selling price of the
19 tender is separately stated.

20 Farm machinery and equipment shall include precision
21 farming equipment that is installed or purchased to be
22 installed on farm machinery and equipment including, but not
23 limited to, tractors, harvesters, sprayers, planters, seeders,
24 or spreaders. Precision farming equipment includes, but is not
25 limited to, soil testing sensors, computers, monitors,
26 software, global positioning and mapping systems, and other
27 such equipment.

28 Farm machinery and equipment also includes computers,
29 sensors, software, and related equipment used primarily in the
30 computer-assisted operation of production agriculture
31 facilities, equipment, and activities such as, but not limited
32 to, the collection, monitoring, and correlation of animal and
33 crop data for the purpose of formulating animal diets and
34 agricultural chemicals. This item (11) is exempt from the

1 provisions of Section 3-90.

2 (12) Fuel and petroleum products sold to or used by an air
3 common carrier, certified by the carrier to be used for
4 consumption, shipment, or storage in the conduct of its
5 business as an air common carrier, for a flight destined for or
6 returning from a location or locations outside the United
7 States without regard to previous or subsequent domestic
8 stopovers.

9 (13) Proceeds of mandatory service charges separately
10 stated on customers' bills for the purchase and consumption of
11 food and beverages purchased at retail from a retailer, to the
12 extent that the proceeds of the service charge are in fact
13 turned over as tips or as a substitute for tips to the
14 employees who participate directly in preparing, serving,
15 hosting or cleaning up the food or beverage function with
16 respect to which the service charge is imposed.

17 (14) Until July 1, 2003, oil field exploration, drilling,
18 and production equipment, including (i) rigs and parts of rigs,
19 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
20 tubular goods, including casing and drill strings, (iii) pumps
21 and pump-jack units, (iv) storage tanks and flow lines, (v) any
22 individual replacement part for oil field exploration,
23 drilling, and production equipment, and (vi) machinery and
24 equipment purchased for lease; but excluding motor vehicles
25 required to be registered under the Illinois Vehicle Code.

26 (15) Photoprocessing machinery and equipment, including
27 repair and replacement parts, both new and used, including that
28 manufactured on special order, certified by the purchaser to be
29 used primarily for photoprocessing, and including
30 photoprocessing machinery and equipment purchased for lease.

31 (16) Until July 1, 2003, coal exploration, mining,
32 offhighway hauling, processing, maintenance, and reclamation
33 equipment, including replacement parts and equipment, and
34 including equipment purchased for lease, but excluding motor

1 vehicles required to be registered under the Illinois Vehicle
2 Code.

3 (17) Until July 1, 2003, distillation machinery and
4 equipment, sold as a unit or kit, assembled or installed by the
5 retailer, certified by the user to be used only for the
6 production of ethyl alcohol that will be used for consumption
7 as motor fuel or as a component of motor fuel for the personal
8 use of the user, and not subject to sale or resale.

9 (18) Manufacturing and assembling machinery and equipment
10 used primarily in the process of manufacturing or assembling
11 tangible personal property for wholesale or retail sale or
12 lease, whether that sale or lease is made directly by the
13 manufacturer or by some other person, whether the materials
14 used in the process are owned by the manufacturer or some other
15 person, or whether that sale or lease is made apart from or as
16 an incident to the seller's engaging in the service occupation
17 of producing machines, tools, dies, jigs, patterns, gauges, or
18 other similar items of no commercial value on special order for
19 a particular purchaser.

20 (19) Personal property delivered to a purchaser or
21 purchaser's donee inside Illinois when the purchase order for
22 that personal property was received by a florist located
23 outside Illinois who has a florist located inside Illinois
24 deliver the personal property.

25 (20) Semen used for artificial insemination of livestock
26 for direct agricultural production.

27 (21) Horses, or interests in horses, registered with and
28 meeting the requirements of any of the Arabian Horse Club
29 Registry of America, Appaloosa Horse Club, American Quarter
30 Horse Association, United States Trotting Association, or
31 Jockey Club, as appropriate, used for purposes of breeding or
32 racing for prizes.

33 (22) Computers and communications equipment utilized for
34 any hospital purpose and equipment used in the diagnosis,

1 analysis, or treatment of hospital patients purchased by a
2 lessor who leases the equipment, under a lease of one year or
3 longer executed or in effect at the time the lessor would
4 otherwise be subject to the tax imposed by this Act, to a
5 hospital that has been issued an active tax exemption
6 identification number by the Department under Section 1g of the
7 Retailers' Occupation Tax Act. If the equipment is leased in a
8 manner that does not qualify for this exemption or is used in
9 any other non-exempt manner, the lessor shall be liable for the
10 tax imposed under this Act or the Service Use Tax Act, as the
11 case may be, based on the fair market value of the property at
12 the time the non-qualifying use occurs. No lessor shall collect
13 or attempt to collect an amount (however designated) that
14 purports to reimburse that lessor for the tax imposed by this
15 Act or the Service Use Tax Act, as the case may be, if the tax
16 has not been paid by the lessor. If a lessor improperly
17 collects any such amount from the lessee, the lessee shall have
18 a legal right to claim a refund of that amount from the lessor.
19 If, however, that amount is not refunded to the lessee for any
20 reason, the lessor is liable to pay that amount to the
21 Department.

22 (23) Personal property purchased by a lessor who leases the
23 property, under a lease of one year or longer executed or in
24 effect at the time the lessor would otherwise be subject to the
25 tax imposed by this Act, to a governmental body that has been
26 issued an active sales tax exemption identification number by
27 the Department under Section 1g of the Retailers' Occupation
28 Tax Act. If the property is leased in a manner that does not
29 qualify for this exemption or used in any other non-exempt
30 manner, the lessor shall be liable for the tax imposed under
31 this Act or the Service Use Tax Act, as the case may be, based
32 on the fair market value of the property at the time the
33 non-qualifying use occurs. No lessor shall collect or attempt
34 to collect an amount (however designated) that purports to

1 reimburse that lessor for the tax imposed by this Act or the
2 Service Use Tax Act, as the case may be, if the tax has not been
3 paid by the lessor. If a lessor improperly collects any such
4 amount from the lessee, the lessee shall have a legal right to
5 claim a refund of that amount from the lessor. If, however,
6 that amount is not refunded to the lessee for any reason, the
7 lessor is liable to pay that amount to the Department.

8 (24) Beginning with taxable years ending on or after
9 December 31, 1995 and ending with taxable years ending on or
10 before December 31, 2004, personal property that is donated for
11 disaster relief to be used in a State or federally declared
12 disaster area in Illinois or bordering Illinois by a
13 manufacturer or retailer that is registered in this State to a
14 corporation, society, association, foundation, or institution
15 that has been issued a sales tax exemption identification
16 number by the Department that assists victims of the disaster
17 who reside within the declared disaster area.

18 (25) Beginning with taxable years ending on or after
19 December 31, 1995 and ending with taxable years ending on or
20 before December 31, 2004, personal property that is used in the
21 performance of infrastructure repairs in this State, including
22 but not limited to municipal roads and streets, access roads,
23 bridges, sidewalks, waste disposal systems, water and sewer
24 line extensions, water distribution and purification
25 facilities, storm water drainage and retention facilities, and
26 sewage treatment facilities, resulting from a State or
27 federally declared disaster in Illinois or bordering Illinois
28 when such repairs are initiated on facilities located in the
29 declared disaster area within 6 months after the disaster.

30 (26) Beginning July 1, 1999, game or game birds purchased
31 at a "game breeding and hunting preserve area" or an "exotic
32 game hunting area" as those terms are used in the Wildlife Code
33 or at a hunting enclosure approved through rules adopted by the
34 Department of Natural Resources. This paragraph is exempt from

1 the provisions of Section 3-90.

2 (27) A motor vehicle, as that term is defined in Section
3 1-146 of the Illinois Vehicle Code, that is donated to a
4 corporation, limited liability company, society, association,
5 foundation, or institution that is determined by the Department
6 to be organized and operated exclusively for educational
7 purposes. For purposes of this exemption, "a corporation,
8 limited liability company, society, association, foundation,
9 or institution organized and operated exclusively for
10 educational purposes" means all tax-supported public schools,
11 private schools that offer systematic instruction in useful
12 branches of learning by methods common to public schools and
13 that compare favorably in their scope and intensity with the
14 course of study presented in tax-supported schools, and
15 vocational or technical schools or institutes organized and
16 operated exclusively to provide a course of study of not less
17 than 6 weeks duration and designed to prepare individuals to
18 follow a trade or to pursue a manual, technical, mechanical,
19 industrial, business, or commercial occupation.

20 (28) Beginning January 1, 2000, personal property,
21 including food, purchased through fundraising events for the
22 benefit of a public or private elementary or secondary school,
23 a group of those schools, or one or more school districts if
24 the events are sponsored by an entity recognized by the school
25 district that consists primarily of volunteers and includes
26 parents and teachers of the school children. This paragraph
27 does not apply to fundraising events (i) for the benefit of
28 private home instruction or (ii) for which the fundraising
29 entity purchases the personal property sold at the events from
30 another individual or entity that sold the property for the
31 purpose of resale by the fundraising entity and that profits
32 from the sale to the fundraising entity. This paragraph is
33 exempt from the provisions of Section 3-90.

34 (29) Beginning January 1, 2000 and through December 31,

1 2001, new or used automatic vending machines that prepare and
2 serve hot food and beverages, including coffee, soup, and other
3 items, and replacement parts for these machines. Beginning
4 January 1, 2002 and through June 30, 2003, machines and parts
5 for machines used in commercial, coin-operated amusement and
6 vending business if a use or occupation tax is paid on the
7 gross receipts derived from the use of the commercial,
8 coin-operated amusement and vending machines. This paragraph
9 is exempt from the provisions of Section 3-90.

10 (30) Food for human consumption that is to be consumed off
11 the premises where it is sold (other than alcoholic beverages,
12 soft drinks, and food that has been prepared for immediate
13 consumption) and prescription and nonprescription medicines,
14 drugs, medical appliances, and insulin, urine testing
15 materials, syringes, and needles used by diabetics, for human
16 use, when purchased for use by a person receiving medical
17 assistance under Article 5 of the Illinois Public Aid Code who
18 resides in a licensed long-term care facility, as defined in
19 the Nursing Home Care Act.

20 (31) Beginning on the effective date of this amendatory Act
21 of the 92nd General Assembly, computers and communications
22 equipment utilized for any hospital purpose and equipment used
23 in the diagnosis, analysis, or treatment of hospital patients
24 purchased by a lessor who leases the equipment, under a lease
25 of one year or longer executed or in effect at the time the
26 lessor would otherwise be subject to the tax imposed by this
27 Act, to a hospital that has been issued an active tax exemption
28 identification number by the Department under Section 1g of the
29 Retailers' Occupation Tax Act. If the equipment is leased in a
30 manner that does not qualify for this exemption or is used in
31 any other nonexempt manner, the lessor shall be liable for the
32 tax imposed under this Act or the Service Use Tax Act, as the
33 case may be, based on the fair market value of the property at
34 the time the nonqualifying use occurs. No lessor shall collect

1 or attempt to collect an amount (however designated) that
2 purports to reimburse that lessor for the tax imposed by this
3 Act or the Service Use Tax Act, as the case may be, if the tax
4 has not been paid by the lessor. If a lessor improperly
5 collects any such amount from the lessee, the lessee shall have
6 a legal right to claim a refund of that amount from the lessor.
7 If, however, that amount is not refunded to the lessee for any
8 reason, the lessor is liable to pay that amount to the
9 Department. This paragraph is exempt from the provisions of
10 Section 3-90.

11 (32) Beginning on the effective date of this amendatory Act
12 of the 92nd General Assembly, personal property purchased by a
13 lessor who leases the property, under a lease of one year or
14 longer executed or in effect at the time the lessor would
15 otherwise be subject to the tax imposed by this Act, to a
16 governmental body that has been issued an active sales tax
17 exemption identification number by the Department under
18 Section 1g of the Retailers' Occupation Tax Act. If the
19 property is leased in a manner that does not qualify for this
20 exemption or used in any other nonexempt manner, the lessor
21 shall be liable for the tax imposed under this Act or the
22 Service Use Tax Act, as the case may be, based on the fair
23 market value of the property at the time the nonqualifying use
24 occurs. No lessor shall collect or attempt to collect an amount
25 (however designated) that purports to reimburse that lessor for
26 the tax imposed by this Act or the Service Use Tax Act, as the
27 case may be, if the tax has not been paid by the lessor. If a
28 lessor improperly collects any such amount from the lessee, the
29 lessee shall have a legal right to claim a refund of that
30 amount from the lessor. If, however, that amount is not
31 refunded to the lessee for any reason, the lessor is liable to
32 pay that amount to the Department. This paragraph is exempt
33 from the provisions of Section 3-90.

34 (33) On and after July 1, 2003 and through June 30, 2004,

1 the use in this State of motor vehicles of the second division
2 with a gross vehicle weight in excess of 8,000 pounds and that
3 are subject to the commercial distribution fee imposed under
4 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
5 1, 2004 and through June 30, 2005, the use in this State of
6 motor vehicles of the second division: (i) with a gross vehicle
7 weight rating in excess of 8,000 pounds; (ii) that are subject
8 to the commercial distribution fee imposed under Section
9 3-815.1 of the Illinois Vehicle Code; and (iii) that are
10 primarily used for commercial purposes. Through June 30, 2005,
11 this exemption applies to repair and replacement parts added
12 after the initial purchase of such a motor vehicle if that
13 motor vehicle is used in a manner that would qualify for the
14 rolling stock exemption otherwise provided for in this Act. For
15 purposes of this paragraph, the term "used for commercial
16 purposes" means the transportation of persons or property in
17 furtherance of any commercial or industrial enterprise,
18 whether for-hire or not.

19 (34) Building materials that will be incorporated into real
20 estate as part of an affordable housing development project and
21 that are exempt from taxation under Section 5m of the
22 Retailers' Occupation Tax Act. This paragraph is exempt from
23 the provisions of Section 3-90.

24 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
25 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;
26 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
27 93-1033, eff. 9-3-04; revised 10-21-04.)

28 Section 15. The Retailers' Occupation Tax Act is amended by
29 adding Section 5m as follows:

30 (35 ILCS 120/5m new)

31 Sec. 5m. Affordable housing building materials exemption.

32 (a) Each retailer who makes a qualified sale of building

1 materials to be incorporated into an affordable housing
2 development project certified by the Illinois Housing
3 Development Authority under Section 32a of the Illinois Housing
4 Development Act by remodeling, rehabilitation, or new
5 construction, may deduct receipts from these sales when
6 calculating the tax imposed by this Act.

7 (b) For purposes of this Section, "qualified sale" means a
8 sale of building materials that will be incorporated into real
9 estate as part of an affordable housing development project for
10 which a Certificate of Eligibility for Sales Tax Exemption has
11 been issued by the Illinois Housing Development Authority. To
12 document the exemption allowed under this Section, the retailer
13 must obtain from the purchaser a copy of the Certificate of
14 Eligibility for Sales Tax Exemption issued by the Illinois
15 Housing Development Authority. The Certificate of Eligibility
16 for Sales Tax Exemption must contain: (i) a statement that the
17 building project identified in the Certificate meets all the
18 requirements for the building material exemption contained in
19 Section 32a of the Illinois Housing Development Act; and (ii)
20 the location or address of the building project.

21 In addition, the retailer must obtain certification from
22 the purchaser that contains:

23 (1) a statement that the building materials are being
24 purchased for incorporation into an affordable housing
25 development project;

26 (2) the location or address of the real estate into
27 which the building materials will be incorporated;

28 (3) a description of the building materials being
29 purchased; and

30 (4) the purchaser's signature and date of purchase.

31 (c) The provisions of this Section are exempt from Section
32 2-70.

33 Section 20. The Property Tax Code is amended by changing".